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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,777	06/27/2005	Michel Camilleri	METPAT P77UAS	7052
20210 7590 12/19/2007 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			EXAMINER HOGAN, JAMES SEAN	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 12/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/540,777

Applicant(s)

CAMILLERI ET AL.

Examiner

James S. Hogan

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,23,30,36-40 and 42 is/are rejected.
- 7) ☐ Claim(s) 24-29,31,32,34,35 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/27/05.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 23, 30, 36-40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,945,429 to Gosis et al in view of U.S. Patent No. 5,582,350 to Kosmyna et al.

Regarding claim 22, Gosis et al teaches a disposable cup for a sprayer where the cup features a cylindrical and, in later embodiments, a cone-shaped body, and the cup having a bottom (at 18) with a face having a vent opening (18) as well as an outlet duct (13) set up on an adaptation part ((49)). Gosis et al does not teach a closable vent device having a moving part. Kosmyna et al teaches a vented non-disposable gravity – fed cup for a sprayer that features a manually-adjustable protruding vent (64) that can be adjusted by way of its (moving part) cap (67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the container of Gosis et al with the vent device of Kosmyna et al in order to have a vented container that provides a user with more control over the flow of paint in a container. As per claim 23, the cap and vent combination qualifies as a valve, and is conformed on the "bottom" at the site of the vent opening. As per claim 30, as best understood, the vent device of Kosmyna et al does not change shape. As per claim 36, the valve plug

(cap (67)) allows for preservation of paint. As pre claim 37, the cop (67) of Kosmyna et al is slidably mounted onto the cylindrical protrusion (65). As per claims 28, 39 and 40, a "plug" or base (66) is crossed with two air channels (71, 72). As per claim 42, Gosis et al teaches (Col. 4, line 50) its container being translucent.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,945,429 to Gosis et al in view of U.S. Patent No. 5,582,350 to Kosmyna et al. and further in view of European Patent Application No. EP 0987060 A1 to Camilleri.

The rejection of claim 22 above serves as the basis for the following. Neither Gosis et al or Kosmyna et al teach the container's bottom wall set back from a peripheral edge, making the vent device recessed. Camilleri teaches a container for a sprayer having a vent and a peripheral edge, making the vent device recesses. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the sprayer container of Gosis et al as taught by Kosmyna et al with the peripheral edge as taught by Camilleri in order to allow a container to be set upon its bottom side without tipping over.

#### ***Allowable Subject Matter***

Claims 24-29, 31, 32, 34, 35, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

Application/Control Number:  
10/540,777  
Art Unit: 3752

Page 4

U.S. Patent No. 5,816,501 to LoPresti et al.

U.S. Patent No. 5,042,840 to Rieple et al

U.S. Patent No. 6,962,432 to Hofeldt

U.S. Patent No. 6,675,845 to Volpenheim et al.

U.S. Patent No. 5,655,714 to Kieffer et al.

U.S. Patent No. 3,240,398 to Dalton, Jr.

U.S. Patent No. 6,874,656 to Rohr et al

U.S. Patent No. 6,435,426 to Copp, Jr.

U.S. Patent No. 4,832,232 to Broccoli

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/540,777  
Art Unit: 3752

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSH  
12/06/2007

DINH Q. NGUYEN  
PRIMARY EXAMINER  
